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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,324	12/31/2001	Mark Rindsberg	7042-10	1489
7590 03/15/2005			EXAMINER	
Akerman, Senterfitt & Eidson, P.A.			LE, DANH C	
Post Office Box 3188			ART UNIT	
West Palm Beach, FL 33402-3188			PAPER NUMBER	
			2683	

DATE MAILED: 03/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/039,324	RINDSBERG ET AL.	
	Examiner	Art Unit	
	DANH C LE	2683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Election/Restrictions***

1. Applicant's election with traverse of claims 1-9 in the reply filed on 10/28/04 is acknowledged. The traversal is on the ground(s) that this application contains 5 distinct species. This is not found persuasive because the following distinct species:

**Species I**, including claims 1-9, relates to a method of content blocking in a digital audio radio comprises steps of selecting and choosing via different networks.

**Species II**, including claims 10-17, relates to a method of disabling at least a portion of one of a plurality of channel in a digital audio radio system which analyzing a broadcast information channel and/or electronic program guide for an indicate of content of the undesired type among a plural of channels.

**Species III**, including claims 18-21, relates to a digital audio capable of disabling at least a portion of a channel among a plurality of channel containing undesired content which selectively stores descriptor comprises location information that either received or calculated at the digital audio radio.

**Species IV**, including claims 22-26, relates to a digital audio capable of disabling at least a portion of a channel among a plurality of channel containing undesired content which transmits a indicate of the undesired content to a central station and programmed to disable the undesired content in the digital audio radio after receiving a signal over the air from a central station to the digital audio receiver.

**Species V**, including claims 27-28, relates to a method of content blocking in a digital audio radio received content and associated content code on a plurality of channel which has a plurality of memory.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**2. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Foladare (US 5,819,160).**

**As to claim 1**, Foladare teaches a method of content blocking in a digital audio radio (figure 1 and col.5, line 39-col.6, line 6), comprising the steps of:  
selectively choosing to skip undesired content on at least a portion of a channel;  
communicating an indicia of the undesired content to a central station; and  
receiving a signal over-the-air from the central station that disables the undesired content in the digital audio radio.

**As to claim 2**, Foladare inherently teaches the method of claim 1, wherein the method further comprises the step of blocking the output of the content by disabling the portion of the channel (col.5, line 39-col.6, line 6).

**As to claim 3**, Foladare inherently teaches the method of claim 1, wherein the method further comprises the step of blocking the output of the content by disabling at least the channel completely (col.5, line 39-col.6, line 6).

**As to claim 4**, Foladare teaches the method of claim 1, wherein the steps of selectively choosing and communicating the indicia of the undesired content to the central station is achieved via a computer network (col.3, line 59-col.4, line 19).

**As to claim 5**, Foladare teaches the method of claim 4, wherein the step of selectively choosing and communicating the indicia comprises selecting a profile for a particular user on a website coupled to the central station (col.3, line 59-col.4, line 19).

**As to claim 6**, Foladare teaches the method of claim 1, wherein the step of selectively choosing is achieved via a user interface in the digital audio radio and the step of communicating the undesired content to the central station is achieved via a reverse channel to the central station (figure 1, 14).

**As to claim 7**, Foladare teaches the method of claim 4, wherein the indicia communicated to the central station is selected from the group comprising a location, a song title, an artist's name, a band name, a channel number, an album, a rating, a tier level, or an identification number associated with the digital audio radio (col.5, line 39-col.6, line 6).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

### **3. Claims 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over**

**Foladare in view of Novak (US 4,750,213).**

As to claim 8, Foladare teaches the method of claim 2, wherein the step of selectively choosing comprises the step of storing a code representative of the undesired content in a memory of the main control unit. Foladare fails to teach the step of storing a code representative of the undesired content in a memory of digital audio radio and wherein the step of blocking comprises the step of comparing the code with a second code embedded in the signal from the central station. Novak teaches the step of storing a code representative of the undesired content in a memory of digital audio radio and wherein the step of blocking comprises the step of comparing the code with a second code embedded in the signal from the central station (col. 7, line 51-col.8, line 11). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Novak into the system of Foladare in order to disable program material from the broadcast signal.

***Allowable Subject Matter***

Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As to claim 9, the teaching of prior arts either alone or in combination fails to teach the method of claim 8, wherein the code stored in the memory is representative of a location and wherein the code representative of the location is updated via a GPS receiver or other location determination means utilizing time delays.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A. Sagar (US 2003/0031455) teaches automatic commercial skipping service.

B. Stetzler et al (US 2002/0055343) teaches apparatus and method for radio program guide capability in digital radio system.

C. Bates et al (US 6,748,237) teaches automated selection of audio broadcast signal source based on user preference criterion.

D. Crema (US 6,477,704) teaches method of gathering and utilizing demographic information from request-based media delivery system.

E. Rindsberg et al (US 6,553,077) teaches method and apparatus for customized selection of audio channels.

F. Patsiokas et al (US 6,785,656) teaches method and apparatus for digital audio playback using local stored content.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANH C LE whose telephone number is 703-306-0542. The examiner can normally be reached on 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, WILLIAM TROST can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



Art Unit: 2683

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



March 10, 2005.

DANH CONG LE  
PATENT EXAMINER